



# Skidmore College

## Student Handbook

### 2011-2012

#### **Sexual Misconduct Policy**

##### **Skidmore College Statement of Sexual Values:**

Skidmore College is committed to providing a learning, working, and living environment that reflects and promotes personal integrity, civility, and mutual respect. Members of the Skidmore community have the right to be free from all forms of abuse, assault, harassment, and coercive conduct, including sexual misconduct, as defined in this policy. Skidmore College considers sexual misconduct to be one of the most serious violations of the values and standards of the College. Unwelcome sexual contact of any form is a violation of students' personal integrity and their right to a safe environment and therefore violates Skidmore's values. Skidmore College will not tolerate sexual misconduct in any form. All members of the Skidmore College community have an obligation to act responsibly in the realm of sexuality and to recognize and challenge any sexual misconduct.

This policy informs the Skidmore community of our values and outlines violations of a sexual nature. This policy identifies a student's rights, options, and resources, and describes actions students may take if they experience an incident of sexual misconduct, or are accused of sexual misconduct.

Skidmore recognizes that part of students' development at the College may include learning and understanding themselves as sexual individuals. Skidmore also respects and upholds the principle that not all students find it necessary to explore their sexual nature or sexuality. Skidmore therefore aims to provide an environment that is comfortable and respectful of all students and their choices regarding sex and their sexuality. Understanding and applying this

policy to the behavior and behavioral expectations of all members of the community helps to ensure Skidmore's goal of being a safe, open community regarding sexuality. Failure to comply with this policy may result in a complaint of sexual misconduct.

Skidmore College strives to promote an environment where mutual respect, communication, cultural competency, understanding, and awareness are the basis for any sexual behavior or activity. Mutual respect and communication are keys to maintaining each student's personal integrity when engaging in sexual behavior.

### **Community Expectations:**

- *Mutual Respect:* Treat others as they would like to be treated. In sexual relations this includes respecting your partner (their desires, boundaries, and body) and having open communication with the person(s) with whom you are engaging in sexual contact so that all those involved are comfortable with the activity that may occur and understand the boundaries and needs of those involved.
- *Communication:* Open communication and listening includes understanding one's own needs and desires, discussing these needs and desires with your partner(s), and, in general, creating open communication within the relationship whether it is for a brief encounter or a longer commitment. Verbal communication in sexual situations is almost always the clearest means to communicate. The College encourages students who choose to engage in sexual behavior to talk with each other clearly about what they want, or do not want, from sex prior to engaging in sexual activity. An environment based on open communications and listening promotes *effective consent*, which Skidmore College considers integral to any responsible sexual relationship.
- *Cultural Awareness and Respect:* The Skidmore College community is a multi-cultural educational environment where the customs and values of each individual are respected. Although the College's standards regarding behavioral expectations and guidelines apply to all individuals, each person should recognize and respect the variations in the cultural expectations of others and demonstrate civility while engaging in open communication regarding sexual desires and boundaries.

**Effective Consent:** *is the basis of this policy because effective consent maintains the value that all persons have the right to feel respected, acknowledged, and safe during sexual activity.*

- Effective Consent is informed, freely and actively given, and is based on rational and reasonable judgment. It requires clear communication between all persons involved in the sexual encounter.
- Consent can be communicated verbally or by action(s). In whatever way consent is communicated, it must be **mutually understandable**.
- Consent is *mutually understandable when a reasonable person would consider the words and/or actions that you and your partner(s) have expressed demonstrate a desire to do the same thing, at the same time, in the same way, with one another.*
- **In the absence of mutually understandable words or actions, the initiators of sexual contact are responsible for making sure they have obtained effective consent from their partner(s). The initiators must fully understand what their partner(s) wants and does not want sexually.**
- Consent to one form of sexual activity does not imply consent to another form of sexual activity. Each new sexual act requires new consent. Effective consent has time boundaries. Consent at one time does not imply consent at any other time.
- The existence of a dating/romantic relationship between the persons involved or the fact of a previous sexual relationship does not automatically establish effective consent for future sexual activity.
- Consent is not the absence of resistance.
- Silence is an inactive behavior, and effective consent is an active behavior. Therefore, silence alone (absent a non-verbal action clearly demonstrating consent) is considered ineffective consent. Silent and inactive behavior may indicate that something is wrong and the potential for sexual misconduct exists. If a partner is inactive (for example, silent or physically still) sexual activity must stop until both partners have communicated clearly with each other about what, if any, sexual activity is mutually desired.
- Effective Consent can never be given by minors (under the age of 17 in New York state), mentally disabled individuals, or by incapacitated persons. A person may be incapacitated as a result of alcohol or other drug use. A person who is unconscious, unaware, or otherwise physically helpless cannot give effective consent to sexual activity.
- Effective consent cannot result from force, or threat of force, coercion, fraud, intimidation, or incapacitation. The use of force to obtain sexual access or to induce consent violates this policy whether the force is physical in nature, violent, or involving threats, intimidation or coercion.
  - ❖ Physical force includes but is not limited to: hitting, kicking and restraining. Physical force means someone is acting on you physically and exerting control over you through violence.
  - ❖ Intimidation is an implied threat. It is not as clear or explicit as an overt threat.

- ❖ Coercion is the application of an unreasonable amount of pressure on someone to the point that they say yes even though they would not have said yes if they had not endured a long period of convincing. Coercion is evaluated based on the intensity, frequency, and duration of the comments or actions. It exists where a sexual initiator engages in emotional manipulation in order to persuade someone to do something sexual they do not want to do.
- Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not have consented.

**PROHIBITED CONDUCT:** *Sexual misconduct is a broad term encompassing any sexual behavior that was committed without effective consent. Sexual misconduct may vary in its severity and consists of a range of behaviors. The following descriptions represent sexual behaviors that violate Skidmore's community standards and values of respect, civility, and personal integrity. These behaviors are serious violations and represent a threat to the safety of the Skidmore Community.*

1. **Sexual Penetration:**

- Any sexual penetration (anal, oral or vaginal), however slight, with any object or sexual intercourse, *without effective consent*. Sexual penetration includes vaginal or anal penetration by a penis, object, tongue or finger and oral copulation by mouth to genital contact or genital or mouth contact.

2. **Sexual Touching, Disrobing and/or Exposure:**

- Any intentional sexual touching, however slight, with any object *without effective consent*. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another or any other bodily contact in a sexual manner. Any disrobing of another or exposure to another by another without effective consent.

3. **Sexual Misconduct by Incapacity:**

- It is a violation of this policy if the initiator has sex with someone the initiator knows, or reasonably should know, to be incapacitated by alcohol, drugs, sleep, or illness. An incapacitated person is not able to make rational, reasonable judgments and therefore is incapable of giving *effective consent*.

Someone is incapacitated when they cannot understand who, what, when, where, why, or how, with respect to the sexual interaction.

4. **Sexual Harassment (Student to Student):**

- Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct or communication of a sexual nature when:
  - Submission to or rejection of such conduct or communication is a term or condition of education benefits, academic evaluations or opportunities
  - Submission to such conduct or communication has the effect of substantially interfering with a student's education
  - Such conduct is sufficiently severe, pervasive, AND objectively offensive as to have the effect of creating an intimidating, hostile or offensive educational environment or negatively affects a student's educational opportunities

To learn more about Skidmore's Anti-Harassment Policy and Procedures refer to the Student Handbook or visit the Human Resources Website at:

[http://cms.skidmore.edu/hr/eeo\\_diversity/upload/EXEMPT-NONEXEMPT-AND-UNION-EMPLOYEES.pdf](http://cms.skidmore.edu/hr/eeo_diversity/upload/EXEMPT-NONEXEMPT-AND-UNION-EMPLOYEES.pdf)

5. **Sexual Exploitation:**

- Sexual exploitation occurs when a student takes non-consensual, unfair, or abusive advantage of another for their own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:
  - Non-consensual video or audio taping of sexual activity.
  - Stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical stalking is of a sexual nature sexual misconduct has occurred.
  - Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation of another for personal sexual pleasure or engages in non-consensual video or audio taping of sexual acts. Although the source for the secretive viewing or taping may be unaware of the observation, this behavior is a form of sexual misconduct and violates the integrity of the unaware student.

6. **Attempted Act:**

- Attempts to commit sexual misconduct are also prohibited under this policy, as is aiding the commission of sexual misconduct as an accomplice.

7. **Retaliation:**

- Retaliation against the individual, who initiates a sexual misconduct complaint, participates in an investigation, or pursues legal action, is prohibited. Independent action may be taken against anyone engaging in retaliation.

**IF YOU BELIEVE THAT AN INCIDENT OF SEXUAL MISCONDUCT HAS OCCURRED:**

A student who has experienced an incident of sexual misconduct should seek help, support, and information immediately. There are many sources for information, assistance and support. If you have experienced an incident of a sexual misconduct you should consider the following immediate actions:

- **Get to a safe place** as quickly as possible.
- **Consider notifying a member of the Sexual Misconduct Response Team, which** includes campus Trained Sexual Misconduct Advisors, the Center for Sex and Gender Relations, and Campus Safety. Many of these resources have after-hours and emergency contacts.
- **If you can, avoid showering, bathing, douching, urinating, or cleaning up in any way.** This will prevent the loss of valuable evidence, though evidence can still be collected even if you do. Do not wash any clothes, towels, or sheets that may contain evidence. Preserve all evidence in a paper bag (not plastic) **or deliver directly to law enforcement.**
- **Don't blame yourself; this was not your fault.**
- **Utilize College and community resources** for immediate and long term assistance.
- **Go to Health Services or an area hospital (Saratoga Springs Hospital).**
- Individuals are encouraged to seek medical attention as soon as possible after an act of sexual misconduct.

**Statement of Confidentiality:**

With respect to any report of sexual misconduct or any complaint of sexual misconduct, Skidmore College will endeavor to maintain the confidentiality of the matter and all individuals involved to the extent permitted by law. Skidmore College will balance the needs of individuals

involved with its obligation to protect the safety and well being of the community at large. In all cases, Skidmore College will respect the privacy and dignity of all individuals involved.

### **Reporting Sources:**

Skidmore College is committed to creating an environment in which students who have experienced an incident of sexual misconduct are encouraged to come forward and make a report. Members of the Skidmore community are strongly encouraged to seek support and information from available reporting sources. Immediate reporting is essential for the protection of students. All sources will provide the reporting student with information about obtaining support, resources, and the process associated with making a report or a formal complaint with the college or with a law enforcement agency.

Reporting may help you to gain some control over the situation and make informed decisions using information provided by the reporting source. Your prompt reporting will not only benefit and support you, but will also help the College in maintaining a safe community.

#### 1. Confidential Reporting Sources:

Confidential reporting sources are those individuals who, by law, are obligated to maintain confidentiality of the disclosure of sexual misconduct. These individuals are not required to re-disclose information shared with them other than in very extreme and unusual circumstances involving evidence of a serious and imminent threat to the individual making the report or to an identifiable third party. Confidential Reporting Sources include:

- ❖ College Chaplains
- ❖ Counseling Center
- ❖ Health Services

#### 2. College Reporting Sources:

College Reporting Sources are individuals who are trained to provide students with information and assist with obtaining information and support from available resources at the College and in the Saratoga Springs community. College Reporting Sources will also provide students with information about the process associated with making a report or a formal complaint with the College or with a law enforcement agency. Although these reporting sources will endeavor to maintain the privacy of the matter and the individuals involved, they may be required to disclose necessary information that is disclosed to them to other College officials. In some circumstances, College Reporting Sources may also be responsible for initiating an investigation of the alleged sexual misconduct. College Reporting Sources include:

- ❖ Title IX Coordinator – When a Sexual Misconduct complaint is filed by a student against another student, the Title IX Coordinator will insure a prompt and thorough investigation is conducted.
- ❖ Sexual Misconduct Response Team
- ❖ Dean of Student Affairs
- ❖ Trained Sexual Misconduct Advisors
- ❖ Campus Safety
- ❖ Campus Conduct Administrator

### 3. **Other Resources:**

Other resources are individuals who can assist with obtaining campus resources, information and support about available resources at the College. Although these resources will endeavor to maintain the privacy of the matter and the individuals involved, they may be required to disclose necessary information to other College officials. Resources include:

- ❖ Student Affairs Administrative Staff
- ❖ Residence Hall Staff Members, Administrators and Directors
- ❖ Resident Assistants
- ❖ Deans
- ❖ Peer Mentors
- ❖ Faculty
- ❖ Coaches and Athletic Trainers
- ❖ Student Organization Advisors
- ❖ Peer Health Educators

#### Student to Student Resources:

- Peer Advocates:
  - The Center for Sex and Gender Relations is a student run, administratively affiliated safe space for reporting incidents of sexual misconduct and obtaining support after incidents of sexual misconduct. The Center is a safe space for students to discuss a variety of topics including sexual misconduct, sexual violence, unhealthy relationships, and sexual health with a trained Student Peer Advocates. The Center can help students get help from on and off campus resources.
  - Student Peer Advocates at the Center are mandated to report for *statistical purposes* all incidents of sexual misconduct that are disclosed to them. This report is made to Campus Safety and will not include any

information that could identify the reporting student. However, when a Student Peer Advocate reasonably believes that an individual's safety is at risk, they will discuss the report with members of the Student Counseling Center and/or Health Promotions staff to determine what information from the report must be shared with administrators at the College responsible for ensuring campus safety. In these situations, Student Peer Advocates will make every effort to let the student know in advance and offer to go with the student to help facilitate an appropriate campus response.

## **STUDENT CONDUCT PROCESS FOR SEXUAL MISCONDUCT**

### **Definitions of Participants:**

- **Complainant:** The student filing a formal complaint of a violation of the Sexual Misconduct Policy by another student.
- **Respondent:** The student accused of violating the Sexual Misconduct Policy.
- **Trained Sexual Misconduct Advisor for the Complainant:** The Advisor is a Skidmore Community staff or faculty member appointed by the Dean of Student Affairs who is trained to support the Complainant.
  - Advisors are available at the request of the student.
  - Students may choose from a diverse list of potential Advisors and may switch at any point should they choose.
  - While students can elect not to use an Advisor, students are strongly encouraged to choose and to work with an Advisor.
  - The Advisor may assist the complainant throughout the Campus Conduct Process, including being present at the conduct hearing. Advisors may not speak at the conduct hearing.
  - In consultation with other College officials or faculty members where appropriate, an Advisor may assist in arranging accommodations which may include:
    - Change of on-campus student housing to different on-campus location
    - Exam (paper, assignment) rescheduling
    - Taking an incomplete in a class
    - Transferring of sections
    - Alternative course completion options
- **Trained Sexual Misconduct Advisor for the Respondent:** The Advisor is a Skidmore Community staff or faculty member appointed by the Dean of Student Affairs to provide information and advice regarding the College's Sexual Misconduct Policy and the Campus

Conduct process for any student whom a complaint is filed against. Students may choose from a diverse list of potential Advisors and may switch Advisors at any point should they choose.

- Once a student receives notification that a complaint has been filed, the College highly recommends that the respondent meet with an Advisor.
- The Advisor is trained to help the student understand the nature of the formal complaint and to discuss the Sexual Misconduct Policy and all processes involved.
- The Advisor assists the respondent to understand the alleged violation of the Sexual Misconduct Policy, the severity of the accusations against them, the process, and all possible sanctions.
- The Advisor may assist the respondent throughout the Campus Conduct Process, including being present at the conduct hearing. Advisors may not speak at the conduct hearing.
- Students are strongly urged to use an Advisor in all cases of alleged sexual misconduct.
- In consultation with other College officials or faculty members where appropriate, an Advisor may assist in arranging accommodations which may include:
  - Change of on-campus student housing to different on-campus location
  - Exam (paper, assignment) rescheduling
  - Taking an incomplete in a class
  - Transferring of sections
  - Alternative course completion options

### **Filing of a Formal Complaint:**

An enrolled student who has experienced an incident of sexual misconduct may file a formal complaint with the Dean of Student Affairs or designee (518-580-5760) on a complaint form provided by the Student Affairs Office. The complaint shall contain a concise statement of the alleged violations of the Sexual Misconduct Policy and a detailed statement of the facts supporting the alleged violations. Although *there is no time limit* on the filing of a formal complaint with the College, the College strongly encourages a prompt filing so that a more satisfactory and complete investigation can be conducted.

### **Responding to a Formal Complaint:**

The respondent shall receive written notification of the filing of a formal complaint, along with a copy of the formal complaint, after the complaint has been received by the Dean of Student Affairs or designee. The respondent must arrange and meet with the specified Campus Conduct Officer or designee within 3 business days after receiving the complaint in order to

discuss the nature of the complaint; the rights and responsibilities of the respondent; and the hearing process. The respondent shall receive a written copy of this policy at that time.

The respondent may be accompanied by a Sexual Misconduct Advisor or any member (student, faculty, or staff member) of the Skidmore College community to the meeting with the Campus Conduct Officer. If the respondent fails to arrange and meet with the Campus Conduct Officer the complaint will either be determined by the Campus Conduct Officer or referred by the Campus Conduct Officer to the Hearing Board for adjudication.

### **Prehearing Process:**

- The College reserves the right to extend any time periods identified in this policy.
- All relevant reports and documents are to be shared immediately upon receipt with the respondent and complainant and no later than 5 business days prior to the hearing.
- Once the respondent has been notified of the formal written complaint, the complainant and respondent will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint.
- The respondent and complainant will be informed in writing of the date and time of the hearing.
- The respondent and complainant shall have the opportunity to make a request to the Campus Conduct Officer for witnesses to testify on their behalf. The Campus Conduct Officer shall determine which witnesses shall testify based on the relevance of their testimony.
- The respondent and complainant must notify the Campus Conduct Officer of any advisors and witnesses attending the hearing 5 business days prior to the hearing.
- Any additional scheduling requests must be directed to the Campus Conduct Officer to be determined.
- If a sexual misconduct case is also being heard by a civil or criminal court, the College retains the right to hear the case before, after, or during the same time as the civil or criminal case, and to implement appropriate action (such as No Contact Orders, removal from campus residence facilities, removing a student from a class or classes or Interim Suspension) to maintain the safety of the campus.
- The Campus Conduct Process shall be confidential to the extent possible and as allowed by law.
- The College will attempt to schedule a hearing within 20 business days after the respondent has received the formal complaint.

### **Rights of the Complainant:**

- The right to be assisted by a trained Sexual Misconduct Advisor throughout the Campus Conduct Process.
- The right to have a support person (a member of the Skidmore College community) accompany and assist throughout the Campus Conduct Process. The support person may not speak at the Conduct Hearing.
- The right to make an Impact Statement at the conclusion of the hearing provided the respondent was found to have violated the Sexual Misconduct Policy, and to have that statement considered by the Board in determining its sanction.
- The right to request a Campus No Contact Order against another student who has engaged in or threatens to engage in an act of sexual misconduct which presents a danger to the welfare of the complainant or others.

#### **Rights of the Respondent:**

- The right to be assisted by a trained Sexual Misconduct Advisor throughout the Campus Conduct Process.
- The right to have a support person (a member of the Skidmore College community) accompany and assist throughout the Campus Conduct Process. The support person may not speak at the Conduct Hearing.
- The right to make an Impact Statement at the hearing and to have that statement considered by the Hearing Board in determining its sanction if it has been determined that the respondent violated the Sexual Misconduct Policy.

#### **Rights of Both the Complainant and Respondent:**

- The right to a reasonable investigation and appropriate resolution of all credible formal complaints.
- The right to have a supporter and Advisor present during a hearing. The supporter and Advisor may not take part directly in the hearing itself, though the student may request a recess to confer with their respective support person and Advisor.
- The right to receive written notice of the outcome and sanction(s) of the sexual misconduct hearing.
- The right to have a hearing.
- The right to appeal the finding and sanction of the Hearing Board in accordance with the provisions of this policy.
- The right to petition that any member of the Hearing Board be removed on the basis of bias.
- The right to bring an Advisor to all phases of the investigation and hearing.
- The right to present relevant witnesses to the Hearing Board, including expert witnesses.

- The right to have the College compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses, and the right to challenge documentary evidence.
- The right to be present for all testimony given and evidence presented before the Hearing Board.
- The right to be informed in advance of any public release of information regarding the formal complaint to the extent possible and as allowed by law.
- The right to be free from retaliation.
- The Complainant and Respondent have the right to consult with an attorney at their own expense outside the Campus Conduct Process. Attorneys cannot participate in the Campus Conduct Process including Conduct Hearings. Attorneys may be present at Conduct Hearings; however, they are required to remain outside of any hearing rooms. If a party wishes to consult with their attorney during a Conduct Hearing, they may do so upon request to the Hearing Chair and if the request is granted, such consultation must occur outside the hearing room(s).

### **Special Procedures:**

#### A. False Reports

The College will not tolerate intentional false reporting of incidents. It is a violation of the *Student Code of Conduct* to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

#### B. Leniency

##### For the Complainant:

The College encourages reporting of incidents of sexual misconduct. Sometimes, complainants are hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct, such as underage drinking at the time of the incident. To encourage reporting of sexual misconduct incidents, the College will exercise leniency towards a complainant with respect to taking action for other violations of the Student Code of Conduct.

##### For the Good Samaritan:

The welfare of students in our community is of paramount importance. At times, students on and off campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to assist another student who experienced an

incident of sexual misconduct.) The College will exercise leniency towards the Good Samaritan with respect to taking action for other violations of the Student Code of Conduct.

### C. Notification of Determination

The determination made after a hearing is part of the education record of the respondent, and is protected from disclosure under Federal law. However, there are two exceptions as follows:

- Complainants shall be informed of the formal complaint against the respondent, the determination made after a hearing, and any sanctions imposed.
- Students who bring any sort of sexual misconduct complaint against faculty or staff may be informed of the determinations made and sanction imposed.

### D. Alternative Testimony Options

For complainants, alternative testimony options will be provided. Options include, placing a privacy screen in the hearing room, or allowing the complainant to testify from another room via video, or other options that provide a safe space for participation while not depriving the respondent of their rights in the process. While these options are intended to help make the complainant more comfortable, they are not intended to work to the disadvantage of the respondent.

### E. Past Sexual History/Character

1. The past sexual history or sexual character of a student will not be admissible in a Sexual Misconduct hearing.
2. If, in the past, a respondent was found to have violated the Sexual Misconduct Policy (“Past Violation”), the information related to the Past Violation may be considered by the Hearing Board if:
  - (a) The previous violation was substantially similar to the present complaint; and
  - (b) The previous violation indicates a pattern of behavior and substantial conformity with that pattern by the respondent.

### **The Hearing:**

- The Campus Conduct Officer shall assemble a Hearing Board of three trained members of Skidmore’s administration or faculty to hear sexual conduct cases. Each Board shall be composed of representatives of both genders.
- All hearings shall be closed to the public.
- Each Board member must indicate to the Campus Conduct Officer within 3 days prior to the hearing whether they have knowledge of the participants in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to recuse themselves if their participation might compromise the integrity of the hearing process.

- All hearings will be audio-recorded. A digital file will be made available to the complainant and/or respondent in the event a request for an appeal is filed.
- Board members shall be provided with access to written information and evidence at least 24 hours prior to the hearing.
- The respondent and complainant may be accompanied by their Advisor. The Advisors are present to act as counselors and to support the respondent and complainant, and to provide advice on procedural matters. The Advisors do not have speaking privileges during the hearing. A hearing will not be cancelled or postponed in the event a scheduled Advisor does not attend. If the scheduled Advisor is not able to attend, the complainant/respondent should arrange for a substitute.
- If the respondent or complainant fails to appear at the hearing, the matter will be resolved in their absence.
- Witnesses may be present at the hearing only at the time they are called to testify. A hearing will not be canceled or postponed if a scheduled witness does not attend.
- Written and notarized statements of witnesses not in attendance due to extraordinary circumstances shall be considered by the Board if approved by the Chair.
- In making its determination the Hearing Board shall consider only the evidence admitted at the hearing and the admission of evidence shall be within the discretion of the Hearing Board.
- At the start of the hearing, the Chair shall ask the respondent if they have received the formal complaint, and if they understand the nature of the formal complaint.
- The Campus Conduct Officer will present the formal complaint along with the information obtained through the investigative process to the Hearing Board. The Hearing Board shall consider only the information and evidence related to the alleged violations set forth in the formal complaint.
- The remainder of the hearing shall customarily proceed in the following order:
  - (1) Opening statement from complainant.
  - (2) Opening statement from respondent.
  - (3) Board questioning of complainant and respondent.
  - (4) Board questioning of witnesses (each witness will be questioned separately).
  - (5) Complainant and respondent questioning of witnesses (each witness will be questioned separately then excused).
  - (6) Complainant and respondent questioning of each other, directed through the Chair.
  - (7) Final questions from the Board.
  - (8) Complainant's closing statement.
  - (9) Respondent's closing statement.
- The Hearing Board will deliberate in private and make an appropriate determination based on the information and evidence presented during the hearing.

- The Hearing Board by unanimous decision will determine whether or not the respondent violated the Sexual Misconduct Policy as alleged in the formal complaint by finding either: “Did violate” or “Did not violate” the Sexual Misconduct Policy. The Board’s determination shall be based on a “Preponderance of the Evidence” standard which means “It is More Likely Than Not” that a violation of the Sexual Misconduct Policy occurred.
- If the Board renders a determination of “Did violate”, the Board will recommend a sanction consistent with those specified in the Skidmore College Code of Conduct.
- The Board shall have up to ten days to render a decision.
- The Dean of Student Affairs or designee will notify both the Complainant and Respondent in writing of the Hearing Board’s decision.
- Both the Complainant and the Respondent may file a written appeal of the Hearing Board’s decision. The appeal must be based on one or more of the following:
  - New information directly related to the case that was unavailable during the investigation period or during the hearing itself.
  - Procedural error that might have affected the decision.
  - Sanction imposed is disproportionate to the violation.
- The purpose of the appeal is not to rehear the underlying case; rather, it is to determine if there is sufficient information presented to allow a reconsideration of the Hearing Board’s decision.
- Appeals must be made, in writing, to the Dean of Student Affairs within five (5) business days of the notification of the decision.
- The Dean of Student Affairs may decide the appeal or ask the original Hearing Board to reconsider the case based on new information presented.
- The Dean of Student Affairs will review the appeal and render its decision within ten business days after receiving the notice of appeal.
- The decision of the Dean of Student Affairs is final.

**Important Contact Information:**

- **\*Counseling Center** - 518-580-5555  
(9 a.m. - 12 noon, 1 p.m. - 5 p.m. Monday - Friday while school is in session)  
Afterhours access on call confidential service through Campus Safety 580-5566
- **\*Health Services** - 518-580-5550  
(9 a.m. - 12 noon, 1 p.m. - 5 p.m. Monday - Friday, and 12 noon - 5 p.m. Sunday while school is in session)  
Afterhours access on call confidential service through Campus Safety 580-5566

- **Dean of Student Affairs** – 518-580-5760
- **Religious and Spiritual Life**  
3<sup>rd</sup> Floor Case Center  
Director of Religious and Spiritual Life 518-580-8340  
Rabbi 518-580-5683  
Roman Catholic Student Coordinator 518-580-8353
- **\*Campus Safety** - 518-580-5566
- **\*Residence hall Staff Member or Administrator "ON CALL"** - 518-580-5566  
(Call Skidmore Campus Safety to contact "on call" person)
- **Center for Sex and Gender Relations** - 518-580-8255  
Open weekly

*\*indicates availability 24 hours a day/7 days a week*

#### **Off Campus Confidential Reporting Sources**

- **\*Domestic Violence and Rape Crisis Services of Saratoga County\***, Saratoga Springs –  
Domestic Violence Hotline: 518-584-8188 Rape Crisis Hotline: 518-587-2336
- **\*Saratoga Hospital Emergency Room** - 518-583-8313
- **Saratoga Planned Parenthood/Schenectady Planned Parenthood** - (518) 584-0041/(518) 374-5353
- **NYS Sexual Violence Hotline:**
  - English: 1-800-942-6906
  - Spanish: 1-800-942-6908
  - English TTY: 1-800-818-0656
  - Spanish TTY: 1-800-780-7660

*\*indicates availability 24 hours a day/7 days a week*

*Policy revision on September 1, 2011.*

*This policy may be amended, in writing, by the Dean of Student Affairs or the Dean's designee at any time.*